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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,164	07/02/2001	Eric C. Haseltine	0260123	2603

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EXAMINER	
CHAMPAGNE, DONALD	
ART UNIT	**PAPER NUMBER**
3622	

MAIL DATE	DELIVERY MODE
11/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/898,164	HASELTINE ET AL.	
	Examiner	Art Unit	
	Donald L. Champagne	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 August 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4,8,10-13,38-45,58,61-65 and 68-72* is/are pending in the application.

4a) Of the above claim(s) *62-64* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4,8,10-13,38-45,58,61,65 and 68-72* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 July 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4 sheets*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 27 August 2007 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Election by Original Presentation

2. Amended claims 62-64 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: In a reply filed 16 June 2006, applicant elected Group 1 (Group A), claims 1-13, 38-46 and 51, drawn to method and system for providing an incentive, classified as class 705, subclass 14. Claims 62-64 are in the toy art, classified as class 446, subclass 484.

3. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 62-64 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102 and 35 USC § 103

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 69-72 are rejected under 35 U.S.C. 102(b) as being anticipated by Lappington et al. (US005638113A).

7. Lappington et al. teaches (independent claim 69) a method for providing an incentive to a user to receive information by providing a plurality of tokens embedded in a programming broadcast signal, the method comprising:

receiving, by a user device (*handheld **32***, col. 9 lines 1-8), a first token of the plurality of tokens (*a plurality of transactions*, col. 5 lines 5-16) transmitted from a broadcast receiving appliance (*settop device **28***) receiving the programming broadcast signal, wherein the first token is indicative of a guessing round (col. 2 lines 50-53);

registering, by the user device, an answer from the user to the guessing round (col. 11 lines 44-45);

receiving, by the user device, a second token (*a message would be displayed*, col. 11 lines 45-48) of the plurality of tokens transmitted from the broadcast receiving appliance receiving the programming broadcast signal, wherein the second token is indicative of a correct answer;

comparing, by the user device, the answer from the user with the correct answer (col. 11 lines 45-48);

registering, by the user device, a point for the user if the answer from the user matches with the correct answer (col. 11 lines 45-48).

8. Lappington et al. also teaches claims 70 (inherently), 71 (col. 11 lines 44-48) and 72 (col. 9 lines 10-12)

9. Claims 1, 2, 4, 8, 11, 38, 41-45, 58, 61, 65 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington et al. (US005638113A) in view of in view of Brusky et al. (US005903259A).

10. Lappington et al. also teaches (independent claims 1, 38, 58 and 65, at col. 8 lines 53-57):

providing the token embedded in an audio signal of the programming broadcast signal;

receiving, by the broadcast receiving appliance, the token embedded in the audio signal of the programming broadcast signal; and

emitting, by the broadcast receiving appliance, the audio signal including the token from the broadcast receiving appliance.

11. Lappington et al. does not teach that the token is emitted outside of a normal hearing frequency range of an acoustic spectrum of the audio signal. Brusky et al. teaches radiating an audio signal outside of a normal hearing frequency range of an acoustic spectrum (i.e., radiating *inaudible sounds*, col. 7 line 65 to col. 8 line 4). Because Brusky et al. teaches that infrared radiation, audible radiation and inaudible sound radiation provide *equivalent results*, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Brusky et al. to those of Lappington et al.

12. Lappington et al. also teaches at the citations given above claims 2, 4, 8, 42, 44, 61 and 68.

13. Lappington et al. also teaches claims 11 and 41 (col. 4 lines 47-64); claim 43 (col. 4 line 26); and claim 45, where the interactive instructions downloaded to *handheld* ***32*** read on "a computer software program" (col. 9 lines 5-10 and 62-63).

14. Claims 10, 12, 13, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington et al. (US005638113A) in view of Brusky et al. (US005903259A) and further in view of Mankovitz et al. (US005523794A). Neither Lappington et al. nor Brusky et al. teach redemption of a token capture device(TCD). Mankovitz et al. teaches redemption of a token capture device (*portable data coupon*, col. 8 lines 24-51). Because Mankovitz et al. teaches that the TCD/*portable data coupon* is capable of redeeming e-coupons using the existing retail infrastructure (col. 8 lines 35-41), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Mankovitz et al. to those of Lappington et al. and Brusky et al. For claim 40, a *discount* or any other benefit reads on a "prize". For claims 12 and 13, Lappington et al. teaches collecting personal information for demographic analysis (col. 10 lines 50-64).

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 9:30 AM to 8 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717. The fax phone number for all *formal* matters is 571-273-8300.

18. The examiner's supervisor, Eric Stamber, can be reached on 571-272-6724.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

20. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring

that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

Donald L. Champagne
Primary Examiner
Art Unit 3622

19 October 2007

DONALD L. CHAMPAGNE
PRIMARY EXAMINER